

Message Text

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ACTION SY-05

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DEPT FOR A/SY/CC PASS TO A/SY/OPS/FO/MSG;
NAIROBI FOR RSS; KARACHI FOR RMO; MSGBN FOR CO;
QUANTICO FOR SJA JBCAPT. SIEGEL)

E.O. 11652: N/A
TAGS: ASEC, MSG
SUBJECT: APPEARANCE OF DR. TEWFIQ IN WALDRON TRIAL

REF: STATE 112576

1. UPON RECEIPT OF REFTTEL, THE ADMINISTRATIVE COUNSELOR, RSO, AND FSL INVESTIGATOR AREF IZZET MET AGAIN WITH DR. TEWFIQ. DESPITE HIS RECOGNITION OF THE IMPORTANCE OF HIS TESTIMONY, WHICH WE EARNESTLY IMPRESSED UPON HIM, HE DECLINES TO APPEAR IF HE HAS TO FLY.

2. DR. TEWFIQ OFFERED ASAIN TO ANSWER ANY QUESTIONS, AS HE HAS DONE PREVIOUSLY IN THE DOCUMENTATION OF THIS CASE, AND THEN INTRODUCED TWO OTHER ALTERNATIVES. HE FIRST PROPOSED THAT HIS IMMEDIATE SUPERIOR, DR. FARAG ASSAAD, WHO IS ALSO A LEGAL MEDICAL OFFICER, BE CALLED IN HIS STEAD. (EMBASSY UNDERSTANDS DR. ASSAAD WOULD WELCOME THE OPPORTUNITY.) SECONDLY, DR. TEWFIQ MUSED THAT, SINCE
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THIS IS A MILITARY PROCEEDING, WHY WOULD IT NOT BE POSSIBLE FOR THE PORTION OF THE TRIAL INVOLVING HIS TESTIMONY TO BE HELD ABOARD A NAVAL VESSEL IN THE PORT OF ALEXANDRIA.

3. HE CLOSED THE MEETING WITH US BY EXPRESSING THE HOPE THAT WE WOULD UNDERSTAND HOW GENUINELY HE FEARS FLYING

AND THAT WE WOULD NOT BE "ANGRY" WITH HIM BECAUSE OF HIS DECISION. (HE RECOUNTED THAT APPROXIMATELY THREE MONTHS AGO THERE WAS A SERIOUS, MAJOR ACCIDENT IN ASWAN, TO WHICH CITY HE WAS ASKED TO FLY TO PERFORM HIS OFFICIAL RESPONSIBILITIES, AND HE DECLINED TO DO SO. HE OFFERED TO DRIVE TO ASWAN, A MATTER OF TWO DAYS RATHER THAN A FEW HOURS, BUT REFUSED TO FLY.) IN HIS PAHKTING COMMENT, HE ASKED THAT WE ADVISE MARINE CORPS AUTHORITIES OF HIS DECLINATION AND, IN TURN, ADVISE HIM OF ANY REACTION WHICH WOULD COME FROM MARINE CORPS JAG AS A RESULT OF HIS DECLINATION. (WE SENSE HE WAS PUTTING THE DECISION OFF A BIT LONGER IN THE HOPE THAT AN ALTERNATIVE TO HIS PERSONAL APPEARANCE MIGHT EVOLVE, BUT WE DO NOT BELIEVE THAT HE WOULD REVERSE HIS DECISION EVEN IF SUBSEQUENTLY INFORMED THAT HIS LACK OF APPEARANCE WOULD SERIOUSLY DAMAGE OR NULLIFY THE JUDICIAL PROCEEDING. IN FACT, THE LONGER HE AGONIZES OVER THIS QUESTION, THE LESS LIKELY WE THINK HE WILL BE TO AGREE TO FLY.)

4. THIS RAISES ANOTHER PROSPECT ON WHICH WE REQUEST MARINE CORPS LEGAL OFFICERS' ADVICE, I.E. IS IT ANTICIPATED THAT HIS APPEARANCE COULD BE DELAYED LONG ENOUGH FOR US TO ASCERTAIN THE AVAILABILITY OF SHIP CONNECTIONS OUT OF ROME, PARIS OR LONDON, INCLUDING THE PROBABILITY OF USE OF A FOREIGN CARRIER SO AS TO ASSURE HIS APPEARANCE?

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ACTION REQUESTED: DEPARTMENT IS REQUESTED TO CONSULT WITH MARINE CORPS JAG ON THE FOLLOWING QUESTIONS:

- (1) WHAT IS THE PREDICTABLE CONSEQUENCE IF
- DR. TEWFIQ DOES NOT PERSONALLY APPEAR?

- (2) WOULD HIS IMMEDIATE SUPERIOR BE ACCEPTABLE
- AS AN ALTERNATIVE TO DR. TEWFIQ?

- (3) IF THE ANSWERS TO QUESTIONS (1) AND (2)
- INDICATE A CONSEQUENCE OF SERIOUS ADVERSE
- IMPACT ON THE JPROCEEDING, WOULD COUNSELS
- BE ABLE TO AGREE ON A DELAYED APPEARANCE,
- ASSUMING SHIP CONNECTIONS COULD BE FOUND
- WHICH WOULD MAKE DR. TEWFIQ'S PERSONAL
- APPEARANCE IN A MATTER OF TWO TO THREE
- WEEKS HENCE? WOULD THE MARINE CORPS
- AUTHORIZE SHIP TRAVEL?

PLEASE ADVISE ASAP, BUT SINCE TOMORROW (FRIDAY) IS A HOLY DAY IN EGYPT, THE RESPONSE NEED NOT BE NIACT IMMEDIATE

SINCE IT IS DOUBTFUL IF WE COULD CONSULT WITH DR. TEWFIQ
EARLIER THAN SATURDAY MORNING. EILTS

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